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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,452	01/29/2004	Jean-Pierre Roux	04-11	3940
30030	7590	08/17/2006	EXAMINER	
JAMES R. WILLIAMS 3103 WILMINGTON ROAD NEW CASTLE, PA 16105			BROWN, DREW J	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/767,452	Applicant(s) ROUX ET AL.	
	Examiner Drew J. Brown	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/14/06 (amendment).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the amendment filed on 6/14/06.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the airbag housing integrally molded with the fender must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. A "Brief Description of the Drawings" section should be included in the specification to represent the schematic view of the motor vehicle fender.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

With respect to claim 4, the specification does not disclose how the airbag housing is integrally molded with the fender.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Claim 3 recites that the airbag housing is situated "in register" with the breakable zone. This phrase renders the claim indefinite because it is unclear to the Examiner exactly how the airbag housing is situated with respect to the breakable zone.

Claim Rejections - 35 USC § 102

7. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Curry et al. (WO 2002/055343 A1).

Curry et al. discloses a motor vehicle fender (62) comprising a skin (94) that separates an inside (92) and an outside of the fender, wherein the skin includes a breakable zone (page 7, line 21) adapted to open when subjected to thrust from the inside towards the outside of the fender (page 7, line 24).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curry et al. in view of Stokes (U.S. Pat. No. 4,488,745).

With respect to claim 2, Curry et al. discloses the claimed invention as discussed above but does not disclose that the fender comprises a plastic material. Stokes, however, does disclose a plastic material (Abstract). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Curry et al. in view of the teachings of Stokes to form the fender out of a plastic material in order to have desirable characteristics to minimize the risk of damage to the vehicle or injury to the occupants or pedestrians during a collision.

With respect to claim 4, although the method of making is not germane to the structure, it would have been obvious to modify the invention of Curry et al. in view of the teachings of Stokes to integrally mold the airbag housing with the plastic bumper so that multiple parts are not needed for assembly; thus, it reduces the cost of installation and manufacturing of the bumper and the airbag housing.

Response to Arguments

10. Applicant's arguments filed on 6/14/06 have been fully considered but they are not persuasive.

On page 4, applicant argues that the claims are enabling because a "bumper" is not considered a "fender." In response to the applicant's argument, the examiner has given the term "fender" the broadest reasonable interpretation. The USPTO has a class named "Vehicle Fenders" (class 293), in which bumpers are classified. Also, the British term for a fender is "bumper." Because of these reasons, the examiner maintains that the rejection is proper because, as claimed, a fender can be considered a bumper.

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On page 4, applicant argues that the language of the specification would make no sense if “fender” meant “bumper.” However, the details are not present in the claims; therefore, the rejection is maintained to be proper.

On pages 4-5, applicant argues the one skilled in the art would recognize that the airbag must be situated in front of the breakable zone in such a way to open up in the breakable zone; thus, being “in register with the breakable zone.” The examiner maintains that the rejection is proper because it is still unclear how the housing is situated with the breakable zone. As claimed, the phrase “in register” could mean that the housing is situated behind, in front, above, or below the breakable zone.

On page 4, applicant argues that claim 4 is not indefinite, but does not state why it is not indefinite; therefore, the rejection is maintained to be proper.

On page 5, applicant argues that Curry teaches a bumper and not a fender. However, as discussed above, a bumper can be considered a fender.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Drew J. Brown
Examiner
Art Unit 3616

db
8/15/06



DAVID F. DUNN
PRIMARY EXAMINER